

Introduced by Senators Schiff, Costa, and Rainey

February 24, 1999

An act to amend Section 6600 of the Welfare and Institutions Code, relating to sexual predators.

LEGISLATIVE COUNSEL'S DIGEST

SB 746, as introduced, Schiff. Sexually violent predators.

Existing law sets forth procedures under which a person under the jurisdiction of the Department of Corrections may be referred for evaluation at least 6 months prior to the person's scheduled date for release from prison if the director determines that the person may be a sexually violent predator. Existing law provides, under certain circumstances, that this person may be required to stand trial, be found beyond a reasonable doubt to be a sexually violent predator, and be committed for 2 years to the custody of the State Department of Mental Health for treatment and confinement in a secure facility until his or her diagnosed mental disorder has so changed that he or she is not likely to commit an act of sexual violence.

Existing law defines sexually violent predator, for purposes of these provisions, to mean a person who has been convicted of a sexually violent offense against 2 or more victims for which he or she received a determinate sentence and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.

This bill would provide that a prior conviction for which a person received a determinate sentence shall include a prior

juvenile adjudication of a sexually violent offense if certain conditions exist.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6600 of the Welfare and
2 Institutions Code is amended to read:

3 6600. As used in this article, the following terms have
4 the following meanings:

5 (a) “Sexually violent predator” means a person who
6 has been convicted of a sexually violent offense against
7 two or more victims for which he or she received a
8 determinate sentence and who has a diagnosed mental
9 disorder that makes the person a danger to the health and
10 safety of others in that it is likely that he or she will engage
11 in sexually violent criminal behavior.

12 For purposes of this subdivision, a prior finding of not
13 guilty by reason of insanity for an offense described in
14 subdivision (b), a conviction prior to July 1, 1977, for an
15 offense described in subdivision (b), a conviction
16 resulting in a finding that the person was a mentally
17 disordered sex offender, or a conviction in another state
18 for an offense that includes all the elements of an offense
19 described in subdivision (b), shall also be deemed to be
20 a sexually violent offense even if the offender did not
21 receive a determinate sentence for that prior offense.

22 Conviction of one or more of the crimes enumerated in
23 this section shall constitute evidence that may support a
24 court or jury determination that a person is a sexually
25 violent predator, but shall not be the sole basis for the
26 determination. The existence of any prior convictions
27 may be shown with documentary evidence. The details
28 underlying the commission of an offense that led to a
29 prior conviction, including a predatory relationship with
30 the victim, may be shown by documentary evidence,
31 including, but not limited to, preliminary hearing
32 transcripts, trial transcripts, probation and sentencing
33 reports, and evaluations by the State Department of



1 Mental Health. Jurors shall be admonished that they may
2 not find a person a sexually violent predator based on
3 prior offenses absent relevant evidence of a currently
4 diagnosed mental disorder that makes the person a
5 danger to the health and safety of others in that it is likely
6 that he or she will engage in sexually violent criminal
7 behavior.

8 (b) “Sexually violent offense” means the following
9 acts when committed by force, violence, duress, menace,
10 or fear of immediate and unlawful bodily injury on the
11 victim or another person, and that are committed on,
12 before, or after the effective date of this article and result
13 in a conviction or a finding of not guilty by reason of
14 insanity, as provided in subdivision (a): a felony violation
15 of paragraph (2) of subdivision (a) of Section 261,
16 paragraph (1) of subdivision (a) of Section 262, Section
17 264.1, subdivision (a) or (b) of Section 288, or subdivision
18 (a) of Section 289 of the Penal Code, or sodomy or oral
19 copulation in violation of Section 286 or 288a of the Penal
20 Code.

21 (c) “Diagnosed mental disorder” includes a
22 congenital or acquired condition affecting the emotional
23 or volitional capacity that predisposes the person to the
24 commission of criminal sexual acts in a degree
25 constituting the person a menace to the health and safety
26 of others.

27 (d) “Danger to the health and safety of others” does
28 not require proof of a recent overt act while the offender
29 is in custody.

30 (e) “Predatory” means an act is directed toward a
31 stranger, a person of casual acquaintance with whom no
32 substantial relationship exists, or an individual with whom
33 a relationship has been established or promoted for the
34 primary purpose of victimization.

35 (f) “Recent overt act” means any criminal act that
36 manifests a likelihood that the actor may engage in
37 sexually violent predatory criminal behavior.

38 (g) *Notwithstanding any other provision of law and for*
39 *purposes of this section, a prior juvenile adjudication of a*
40 *sexually violent offense shall constitute a prior conviction*

1 *for which the person received a determinate term if all*
2 *of the following applies:*

3 *(1) The juvenile was 14 years of age or older at the time*
4 *he or she committed the prior offense.*

5 *(2) The prior offense is a sexually violent offense as*
6 *specified in subdivision (b).*

7 *(3) The juvenile was found to be a fit and proper*
8 *subject to be dealt with under the juvenile court law.*

9 *(4) The juvenile was adjudged a ward of the juvenile*
10 *court within the meaning of Section 602 because of the*
11 *person's commission of the offense giving rise to the*
12 *juvenile court adjudication.*

